

have come into our country illegally across our borders. They cannot prosecute them. They can detain them only for a reasonable period of time. They have to turn them over to Federal agencies. But they are able, with regard to criminal immigration offenses, to conduct such detentions as a complement to and as a part of their historic ability to assist in the enforcement of existing Federal law—and, indeed, citizens can make citizen arrests for violations in some instances. This has been a part of the law.

What is somewhat confused is that we have perhaps 40 percent of the people enter into our country legally, but overstay. Maybe that large a percentage of our illegal population are visa overstays. The Court of Appeals in California—our Nation's clearly most liberal, the Ninth Circuit—concluded that local officers do not have the authority to detain those visa overstayers. If you break across the border, that is clearly a criminal offense and detention can be had for that, they say, but not for the others. Two other circuits—the Tenth and Fifth—seem to indicate otherwise.

The Department of Justice did a memorandum at one point that said there was not authority for the detention of people in our country who have not committed criminal violations of immigration law. Then that opinion was withdrawn. So the matter is confusing. There was an article in the Washington Times newspaper about it yesterday. The article quoted one of the people as saying there are gray areas here. There was an article in the Huntsville, AL, newspaper about a meeting with the police and the lawyers and the city council about what they could do to participate in the enforcement of laws with regard to those in our country illegally. The lawyers told them there is some confusion there.

Well, it is not hard for us to clear up that confusion. The House of Representatives tried to do it in their first bill last year, so they made it a felony to overstay and enter the country illegally. That resulted in an uproar and people saying we are going to make felons of them and that was awful, so there was a big retreat from that. We have to figure out the best way to proceed with it.

My view is two things need to occur. We need better training of our State and local law enforcement that goes into their existing power so they know what they are able to do and they don't overreach; second, we need to pass legislation. But this is an appropriations bill and we cannot legislate on an appropriations bill. We are not able to offer an amendment that would change or would clarify what the powers of the local law enforcement are.

We should make it quite clear that they have the power to detain anyone in our country illegally. They can detain a Governor. They can detain a mayor. They can detain a Senator.

Why can't they detain somebody who is not a citizen and is in the country illegally?

What do the American people think about this? Americans strongly value our heritage as a nation of immigrants. Americans openly welcome legal immigrants and new citizens. They value the character, the ability, the decency, and the strong work ethic of so many of those who have come to our country. However, it is also clear that Americans do not feel the same way about those who violate our laws. The fact is, a large majority feel that State and local governments should be aiding the Federal Government in stopping illegal immigration.

A Roper poll titled "Americans Talk About Illegal Immigration" found that 88 percent of Americans agree and 68 percent strongly agree that Congress should require State and local government agencies to notify INS, now ICE, and their local law enforcement when they determine that a person is here illegally or who has presented fraudulent documentation.

Additionally, 85 percent of Americans agree and 62 percent strongly agree that Congress should pass a law requiring State and local governments and law enforcement agencies to apprehend and turn over to the INS illegal immigrants with whom they come in contact.

So this amendment I have offered is far less reaching. Those numbers speak volumes about the instincts and the understanding of the American people about the enforcement of laws in America.

It is important to note that these responses were collected in response to questions about requiring State and local law enforcement action. The amendment I have offered does not require that, although it is mightily frustrating to see cities and certain jurisdictions open, call themselves sanctuary bodies, and assert to the whole world that not only will they not help in any way to enforce the law but will, in fact, not cooperate with the enforcement of Federal laws in their jurisdiction. To me that is inexcusable. It is an affront to our history as a lawful society, and I am troubled by it.

Again, the first step is we should do a better job of training local and State law enforcement officers, and, second, we should clarify their jurisdiction. If we do not do that, I don't think we are very serious about bringing under control illegal immigration in America.

I did offer a second-degree amendment earlier, and I withdrew it. I ask unanimous consent that I be allowed to modify Senator DOLE's amendment to include the language I proposed.

The PRESIDING OFFICER (Mr. NELSON of Florida). Is there objection?

Mrs. MURRAY. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MURRAY. Mr. President, I say to the Senator, there are a number of amendments we expect to be called up

shortly. For the information of all Senators, we are working through the order we have in front of us right now. Staff is working through a number of amendments we think will be agreed to. At that point, we can work through the final amendments, and we will talk with the Senator about offering his amendment.

Mr. SESSIONS. I thank the Chair and thank Senator MURRAY.

I do feel strongly about this issue. We have talked about it for quite a number of years. It is time for us to get this matter settled and fixed. It is overdue. I look forward to working with the Senator.

I thank the Chair. I see other Senators have arrived.

I yield the floor.

Mrs. MURRAY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THUNE. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THUNE. I ask unanimous consent to speak in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. THUNE are printed in today's RECORD under "Morning Business.")

Mr. THUNE. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I have consulted with the Democratic manager of this bill, I have spoken to Senator COCHRAN, Senator MCCONNELL. We are going to plow on to finish this bill tonight.

Now, we have worked long and hard the last couple of weeks, late nights, and we may have to have one tonight. We really need to finish this legislation for all of the reasons we have all talked about before, not the least of which is we have so much to do next week that we have to finish this tonight. We also have some other things we are going to try to do, but everyone should be aware of that. Do not plan on going home for dinner tonight.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, we are making progress. We have been working through a number of amendments over the past several hours. I thank the majority leader, the minority leader, as well as the managers of the bill in helping us move forward.

AMENDMENT NO. 2496, WITHDRAWN

AMENDMENT NO. 2488, AS MODIFIED

I would just reiterate what Senator REID said earlier. I am happy that we